

Paul J. Bishop
Plaintiff

- vs. -

Defendants

- 1) The Office of Personnel Management
- 2) The Department of Homeland Security

Parties:

Paul J. Bishop, Plaintiff
22 Sunnyside Lane,
Hillsborough, New Jersey 08844

The Office of Personnel Management, Defendant
1900 E Street, NW Washington D.C. 20415

The Department of Homeland Security, Defendant
U.S. Department of Homeland Security
Washington D.C. 20528

Jurisdiction:

The Court has jurisdiction over this matter pursuant to 5 USCS § 552(g)(1)(A) and 5 USCS § 552(g)(1)(B).

Cause of Action :

The Plaintiff was hired by the Department of Homeland Security as a Federal Career Intern in the Excepted Service under the provisions of 5 CFR § 213. As a condition of employment in the excepted service the President has excluded Federal Career Interns from the Career or Career Conditional Service under the provisions of 5 CFR § 315.804. As a condition of employment in the excepted service the Congress with 5 USCS § 3301, has excluded Federal Career Interns from the Career or Career Conditional Service under the provisions of 5 CFR § 315.804. As a condition of employment in the excepted service Federal Career Internship the President and Congress have excluded Federal Career Interns from the jurisdiction of the Merit Protection Board by excluding interns from all adverse personnel actions. Congress has restricted the use of 5 CFR § 315.804 to Career or Career Conditional Service appointments in the first year of a 5 CFR § 315 competitive service appointment.

The Plaintiff made protected disclosures under the provisions of 29 CFR § 1614 to Homeland Security Assistant Port Director John Lava in an attempt to resolve an EEOC complaint the Plaintiff filed against the Department of Homeland Security in EEOC formal mediation. John Lava then willfully and intentionally used the Plaintiff's own legally protected disclosures as illegal and inaccurate allegations against the Plaintiff under the provisions of 5 CFR § 315.804 to cause the Plaintiff pecuniary harm.

The Office of Personnel Management and the Department of Homeland Security are willfully and intentionally maintaining the Plaintiff's 29 CFR § 1614 protected disclosures as adverse employment actions in the Plaintiff's employment records under the provisions of 5 CFR § 315.804 in violation of Executive Order 013162. These illegal and inaccurate records have been used to deny the Plaintiff competitive service federal employment. This has caused the Plaintiff pecuniary harm.

The Plaintiff has requested that the Office of Personnel Management eliminate all records maintained under the provisions of 5 CFR § 315.804 from the Plaintiff's employment record under the Privacy Act, 5 USCS § 552. The Plaintiff has also requested that the Office of Personnel Management correct his

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AT 8:30
WILLIAM T. WALSH
CLERK

personnel folder under the provisions of 5 CFR § 213. The Office of Personnel Management has refused to comply with this request.

The Plaintiff has made a request under the provisions of the Freedom of Information Act for the Department of Homeland Security to provide him with the all records it maintains pertaining to his internship. The Plaintiff has also made a request under the provisions of the Freedom of Information Act that the Department provide him with proof of a Career or Career Conditional Service appointment under the provisions of 5 CFR § 315. Without an appointment to a Career or Career Conditional Service position in the competitive service the Department lacks the legal authority to maintain adverse action competitive service 5 CFR § 315.804 records on a 5 CFR § 213 excepted service internship. To date the Department has refused to comply with the Plaintiff's Freedom of Information request in violation of the law.

Demand:

The Plaintiff is seeking pecuniary damages from the Defendant for the loss of salary and career opportunities denied to him by the Defendant's actions.

The Plaintiff is seeking an immediate injunction against the Defendants removing all records maintained under the provisions of 5 CFR § 315.804 against the Plaintiff in the Plaintiff's personnel folder, on the internet and from any other known and unknown form of communication or record.

The Plaintiff is seeking that the Court correct the Plaintiff's Personnel Folder and all Agency work records in accordance with 5 CFR § 213.

The Plaintiff is seeking that the Court to compel the Department of Homeland Security to provide him with the all records it maintains pertaining to his internship.

The Plaintiff is seeking the recovery of all administrative and court cost from the Defendant associated with the removal of records maintained under the provisions of 5 CFR § 315.804 from his 5 CFR § 213 employment record.

Jury Demand:

Pursuant to Federal Rule 38(b) of the Federal Rules of Civil Procedure the Plaintiff request a trial by jury as to all the issues in this case.